U.S.

CIVIL SERVICE COMMISSION

Information Concerning Politcal Assessments and Partisan Activities

1920

ORM 1236.

UNITED STATES. CIVIL SERVICE COMMISSION

INFORMATION

CONCERNING

POLITICAL ASSESSMENTS AND PARTISAN ACTIVITY

OF FEDERAL OFFICEHOLDERS AND EMPLOYEES

SEPTEMBER, 1920

WASHINGTON
GOVERNMENT PRINTING OFFICE
1920

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INFORMATION CONCERNING POLITICAL ASSESSMENTS AND PARTISAN ACTIVITY OF FEDERAL OFFICEHOLDERS AND EMPLOYEES.

I. POLITICAL ACTIVITY OF COMPETITIVE EMPLOYEES.

1. CIVIL SERVICE RULE I, SECTION 1, is as follows:

No person in the executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no active part in political management or in political campaigns.

Every employee is conclusively presumed to know the law, including its restrictive as well as its protective provisions. He ought to be able to repeat from memory the clear language of section 1, of Rule I, quoted above.

2. Definition of political activity and scope of rule.—Activity in politics includes any activity pertaining to or connected with a party or parties controlling or seeking to control Government in the Nation, or in a State, county, or municipality. Any one of two or more bodies of people contending for antagonistic or rival governmental policies or measures is a political party. The fact that a campaign may not mean affiliation with any of the great national political parties or that the party may be a reform party is not material, for the reason that one of the primary purposes of the rule forbidding political activity on the part of competitive classified employees is to require them, in their political as well as their official actions, to avoid any act or display of partisanship on any pending political issue which might cause public scandal or unfavorable comment and offend persons who have relations with them in their official capacity. For an employee of the Government who is the paid servant of all citizens of all political faiths, publicly to display his partisanship with respect to any pending issue is detrimental to the service; an employee could not, of course, be permitted to support such an issue and another employee forbidden to oppose it, and his partisanship, while pleasing to some, would be offensive to others. It is well known that reform or so-called nonpartisan campaigns are frequently more bitterly contested than campaigns conducted on strictly partisan lines, and however meritorious may be the reform sought to be attained, if the question is a political one a competitive employee may not take an active part in its discussion or solution. No attempt can be made in enforcing the rule to distinguish between good and bad political activity and the fact that the political activity may be under the auspices of a religious organization (as in the question of prohibition) or of a labor union (as in the matter of legislation on labor or other kindred questions) does not make it any the less prohibited political activity.

3. Activity by indirection or through organizations.—Employees are accountable for political activity by persons other than themselves, including wives or husbands, if, in fact, the employees are thus accomplishing by collusion and indirection what they may not lawfully do directly and openly. Political activity, in fact, regardless of the methods or means used by the employee, constitutes the violation.

It is clear that what an employee may not lawfully do independently he may not lawfully do in open or secret cooperation with others. What he may not lawfully do directly he may not lawfully do indirectly; and what he may not lawfully do personally he may not lawfully do by an agent, officer, or employee chosen by himself or subject to his power. It may be urged, with much show of reason, that the employees are not instantly responsible for a violation of law

committed by their associates, their officers, or other agents, in which violation they did not personally participate, which they did not personally approve and advise, and of the intended commission of which they had no previous notice or knowledge. Every employee is, however, clearly responsible for a continuation or a repetition of the abuse of power vested by such employee in an association, or its officers or in other persons. Such responsibility may be terminated only by establishing and maintaining effective control over such agencies or by the withdrawal of the power so vested in them. The Commission conceives these principles to be fundamentally sound and to be conclusive of the rights and liabilities of employees.

To make a public attack on a candidate for public office is to take active part in a political campaign. Such action by an employee is violative of Rule I and may subject the offending employee to separation from the public service. If the attack is made by the joint action of several employees, the guilt is still personal and attaches to each employee separately and severally for the purpose of the administration of the civil-service law.

If the offense be committed by the employees through the instrumentality of an open organization of employees, proof becomes readily available. After a few typical and well-considered cases the enemies of an employee or one desiring to supplant him in the public service will find his removal to be almost a matter of routine. Thus the employee will suffer personal loss and the public service will be demoralized.

That an attack upon a candidate for public office by Federal employees is a violation of the rule is too clear to call for more than a simple statement of the fact. If it be permissible for Federal employees to take active part in a political campaign to elect one candidate and defeat another, by the same token the successful candidate must be accorded the right to dismiss from the public service whom he will and fill the vacancy by the appointment of whom he will. That means the return of the spoils system, with infinite disaster to Federal employees and the public service. It is childish to assume that the protective provisions of the civil-service law can outlive the full and impartial enforcement of its restrictive provisions. The latter alone make the former possible and the nullification of the latter will destroy the whole law.

4. Temporary employees—Leave of absence.—Temporary or emergency employees, substitutes, and persons on furlough or leave of absence, with or without pay, are subject to the rule. While an employee is in the competitive classified service and his name is carried on the rolls, the civil-service rules and regulations apply to him and he must refrain from their violation, even though he may not be rendering actual service to the Government. It is not permissible for an employee to take leave of absence for the purpose of working for a political committee or organization or of becoming a candidate for an elective office with the understanding that he will resign his competitive position if nominated or elected.

5. Unclassified laborers.—Under the regulations for the navy-yard service, approved December 7, 1912, unclassified laborers are made subject to dismissal for political activity in the same manner as are competitive classified employees. Similar instructions have been issued by other departments placing the same limitations in regard to political activity on laborers in the unclassified service as are applied to competitive employees.

6. Conventions.—The rule is held to forbid candidacy for or service as delegate, alternate, or proxy in any political convention, or as an officer or employee thereof. It does not prohibit mere attendance as a spectator, but the person so attending must not take any part in the convention or in the deliberations or proceedings of any of its committees and must refrain from any public display of partisanship or obtrusive demonstration or interference or any activity which might cause scandal or unfavorable comment.

7. Primaries—Caucuses.—An employee may attend a primary meeting, mass convention, beat convention, caucus, and the like and may cast his vote on any question presented, but he may not pass this point in participating in its deliberations. He may not act as an officer of the meeting, convention, or caucus, may not address it, make motions, prepare or assist in preparing resolutions, assume to represent others, or take any prominent part therein.

8. Committees.—Service on or for any political committee or similar organization is prohibited. An employee may attend as a spectator any meeting of a political committee to which the general public is admitted, but must refrain from activity as indicated in the preceding paragraphs.

The whole organization of a political committee has a purpose which classified employees are not permitted to further. Under the division of labor made necessary by modern business methods one may be assigned to duties which if considered alone would seem far removed from active politics, but which when considered as a part of the whole must take on the active political character of the whole. One little wheel in a machine may seem unimportant and far removed from the actual seat of production; it nevertheless performs its humble function and contributes to that production. To attempt to fairly differentiate between workers under political committees according to the degree of importance of their work would involve great difficulty.

9. Clubs.—Employees may be members of political clubs, but it is improper for them to be active in the organization of such a club, to be officers of the club, or members or officers of any of its committees or act as such, or to address a political club. Service as a delegate from such a club to a league of political clubs is service as an officer or representative of a political club and is prohibited, as is service as a delegate or representative of such a club to or in any other organization. In other words, an employee may become a member of a political club, but may not take an active part in its management or affairs, and may not represent other members or attempt to influence them by his actions or utterances.

10. Meetings.—Service in preparing for, organizing, or conducting a political meeting or rally, addressing such a meeting, or taking any other active part therein, except as a spectator, is prohibited.

11. Expression of opinions.—The right to express privately his opinions on all political subjects is reserved to the employee by the rule. He must confine himself to the private expression of his views and must refrain from political discussions or conferences while on duty or in public places; he must not canvass a district or solicit political support for any party, faction, candidate, or measure.

12. Activity at the polls and for candidates.—An employee has the right to vote as he pleases, and to exercise this right free from interference, solicitation, or dictation by any fellow employee or superior or any other person. It is his duty to avoid any offensive activity at primary and regular elections, and he must refrain from soliciting votes, assisting voters to mark ballots, or in getting out the voters on registration and election days, acting as the accredited checker, watcher, or challenger of any party or faction, assisting in counting the vote, or engaging in any other activity at the polls except the marking and depositing of his own ballot. The rendition of service for pay, such as transporting voters to and from the polls and candidates on canvassing tours, even though such service is performed without regard to political party, is held within the scope of political activities prohbited by the rule.

13. Election officers.—An employee may not seek appointment or election to or serve in any position of election officer, except in positions refusal to serve in which is penalized by the election law of the State, and in the latter case he must not seek or solicit appointment or election, and if appointed without his solicitation must act impartially and without exhibiting partisan feelings or giving any appearance of partisan activity.

14. Newspapers—Publication of letters or articles.—An employee may not publish or be connected editorially, managerially, or financially with any political newspaper, and may not write for publication or publish any letter or article, signed or unsigned, in favor of or against any political party, candidate, faction, or measure. An employee who writes such a letter or article is responsible for any use that may be made of it whether or not he gives consent to such use.

15. Liquor question.—Activity in campaigns concerning the regulation or suppression of the liquor traffic is prohibited. An employee may be a member but not an officer of a club, league, or other organization which takes part in such a campaign. The rule does not prohibit temperance propaganda, but any endeavor for or against the regulation, control, or suppression of the liquor traffic through political agencies is prohibited. The fact that the activity may be under the auspices of a religious organization does not relieve the employee from the necessity of obeying the rule. The rule does not exclude the employee from participating in discussion where no political issue is involved or from making an address on any moral or ethical subject, but when two or more parties or factions become engaged in a contest for rival or antagonistic measures or policies of control or regulation a political question is presented.

16. Contributions.—An employee may make political contributions to any committee, organization, or person not employed by the United States, but may not

under the rule solicit, collect, receive, or otherwise handle or disburse the same. (See provisions of the Criminal Code, discussed in paragraphs 38 to 47.)

17. Candidacy for or holding local office.—Candidacy for a nomination or for election to any national, State, county, or municipal office is not permissible. The prohibition against political activity extends not merely to formal announcement of candidacy but also to the preliminaries leading to such announcement and to canvassing or soliciting support or doing or permitting to be done any act in furtherance of candidacy. The fact that candidacy is merely passive does not take it out of the prohibition of the rule, and if an employee acquiesces in the efforts of friends in furtherance of such candidacy and does nothing to prevent them the rule is violated. Certain exceptions are stated in the following sections (18 to 28):

18. Executive order of January 17, 1873:

Whereas it has been brought to the notice of the President of the United States that many persons holding civil office by appointment from him or otherwise under the Constitution and laws of the United States while holding such Federal positions accept offices under the authority of the States and Territories in which they reside, or of municipal corporation, under the charters and ordinances of such corporations, thereby assuming the duties of the State, Territorial, or municipal office at the same time that they are charged with the duties of the civil office held under Federal authority:

And whereas it is believed that, with but few exceptions, the holding of two such offices by the same person is incompatible with a due and faithful discharge of the duties of either office; that it frequently gives rise to great inconvenience, and often results in detriment to the public service; and, moreover, is not in harmony with the genius of the Government:

In view of the premises, therefore, the President has deemed it proper thus and hereby to give public notice that, from and after the 4th day of March, A. D. 1873 (except as herein specified), persons holding any Federal civil office by appointment under the Constitution and laws of the United States will be expected, while holding such office, not to accept or hold any office under any State or Territorial government, or under the charter or ordinances of any municipal corporation; and, further, that the acceptance or continued holding of any such State, Territorial, or municipal office, whether elective or by appointment, by any person holding civil office as aforesaid under the Government of the United States, other than judicial offices under the Constitution of the United States, will be deemed a vacation of the Federal office held by such person, and will be taken to be and will be treated as a resignation by such Federal officer of his commission or appointment in the service of the United States.

The offices of justices of the peace, of notaries public, and of commissioners to take the acknowledgment of deeds, of bail, or to administer oaths, shall not be deemed within the purview of this order and are excepted from its operation, and may be held by Federal officers.

The appointment of deputy marshals of the United States may be conferred upon sheriffs or deputy sheriffs. And deputy postmasters, the emoluments of whose office do not exceed $600 per annum, are also excepted from the operation of this order and may accept and hold appointments under State, Territorial, or municipal authority, provided the same be found not to interfere with the discharge of their duties as postmasters.[1] Heads of departments and other officers of the Government who have the appointment of subordinate officers are required to take notice of this order, and to see to the enforcement of its provisions and terms within the sphere of their respective departments or offices and as relates to the several persons holding appointments under them, respectively.

19. Executive order of January 28, 1873:

Inquiries having been made from various quarters as to the application of the Executive order issued on the 17th of January relating to the holding of State or municipal offices by persons holding civil offices under the Federal Government, the President directs the following reply to be made:

It has been asked whether the order prohibits a Federal officer from holding also the office of an alderman or of a common councilman in a city, or of a town councilman of a town or village, or of appointments under city, town, or village governments. By some it has been suggested that there may be distinction made in case the office be with or without salary or compensation. The city or town offices of the description referrd to, by whatever names they may be locally known, whether held by election or by appointment, and whether with or without salary or compensation, are of the class which the Executive order intends not to be held by persons holding Federal offices.

It has been asked whether the order prohibits Federal officers from holding positions on boards of education, school committees, public libraries, religious or eleemosynary institutions incorporated or established or sustained by State or municipal authority. Positions and service on such boards and committees, and professorships in colleges are not regarded as "offices" within the contemplation of the Executive order, but as employments or service in which all good citizens may be engaged without incompatibility and in many cases without necessary interference with any position which they may hold under the Federal Government. Officers of the Federal Government may therefore engage in such service, provided the attention required by such employment does not interfere with the regular and efficient discharge of the duties of their office under the Federal Government. The head of the department under whom the Federal office is held will in all cases be the sole judge whether or not the employment does thus interfere.

The question has also been asked with regard to officers of the State militia. Congress having exercised the power conferred by the Constitution to provide for organizing the militia, which is liable to be called forth to be employed in the service of the United

[1] See paragraph 20.

States, and is thus, in some sense, under the control of the General Government, and is, moreover, of the greatest value to the public, the Executive order of the 17th January is not considered as prohibiting Federal officers from being officers in the militia in the States and Territories.

It has been asked whether the order prohibits persons holding office under the Federal Government being members of local or municipal fire departments; also, whether it applies to mechanics employed by the day in the armories, arsenals, and navy yards, etc., of the United States. Unpaid service in local or municipal fire departments is not regarded as an office within the intent of the Executive order, and may be performed by Federal officers, provided it does not interfere with the regular and efficient discharge of the duties of the Federal office, of which the head of the department under which the office is held will in each case be the judge. Employment by the day as mechanic or laborer in the armories, arsenals, navy yards, etc., does not constitute an office of any kind, and those thus employed are not within the contemplation of the Executive order.[8] Master workmen and others who hold appointments from the Government or from any department, whether for a fixed time or at the pleasure of the appointing power, are embraced within the operation of the order.

20. Application of political activity rule.—The Civil Service Commission has no function in the interpretation or enforcement of the above orders of January 17 and 28, 1873, except in so far as they relate to the rule forbidding political activity by competitive classified employees and unclassified laborers. These employees, with some exceptions, are prohibited from holding any elective office or any office filled through appointment by an elected officer, board, or council. The provision of the Executive order of January 17, 1873, excepting from its prohibitions to hold local office "deputy postmasters, the emoluments of whose office do not exceed $600 per annum, is modified and amended by the subsequent Executive orders placing fourth-class postmasters in the competitive classified service and thereby subjecting them to the provision of section 1 of Rule I as to political activity, and further by section 4 of the regulations agreed to by the Department and the Commission and approved by the President on November 25, 1912, which prohibits political activity by fourth-class postmasters, and applies to all offices of the fourth class of whatever compensation.[9]

21. Active candidacy for office excepted from rule not permissible.—The provisions of the Executive orders of January 17 and 28, 1873, permitting the holding of certain minor offices, do not relieve a competitive classified employee from the necessity of obeying the rule concerning political activity. The only difference between these and other elective offices is that candidacy for or holding such an office is not alone sufficient to constitute a violation of the rule, while it is sufficient in offices not excepted from the operation of the orders. If candidacy for any office, whether or not one of the offices mentioned in the orders involves or necessitates activity in political management or in a political campaign, such candidacy is prohibited by the rule. If, however, a competitive employee by becoming a passive or inactive candidate may secure election to one of the positions excepted from the operation of the orders, the rule is not violated. In the case of offices not excepted from the operation of the Executive order of January 17, 1873, candidacy alone, even if passive, is regarded as a violation of the rule.

22. Excepted offices.—Persons in the executive civil service may be appointed to certain other positions which are held to be excepted from the operation of the order of January 17, 1873, provided the consent of the department under which the Federal office is held is obtained and the political activity rule is not violated, viz:

Employees on Indian reservations may be appointed under State authority as deputy sheriffs or constables, as the requirements of the service demand, this action being necessary, as on all reservations which have been allotted and opened for settlement conditions arise wherein the Federal Government has sole jurisdiction over certain offenses and the State has jurisdiction over other offenses, and where there can be merged in one person the joint authority of a Federal and State officer, a serious difficulty in the administration of justice is removed.

There is no objection to the holding of a small-salaried position in a municipal fire department.

Under subsequent Executive orders certain other exceptions have been made, as indicated below:

Officers and employees of the Department of Agriculture are authorized to hold State and territorial positions when such action is deemed necessary by the Secretary of Agriculture to secure a more efficient administration. (Executive order of June 26, 1907.)

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[8] See paragraphs 5 and 24.

[9] See sec. 160, Postal Laws and Regulations.

State and county officials may be appointed special agents under the Bureau of the Census for the collection of cotton statistics. (Executive order of August 4, 1909.)

The temporary office or moderator of a town meeting and offices of a like character are excepted from the operation of the order of January 17, 1873. (Order of August 24, 1912.)

Employees of the Reclamation Service and the National Park Service may, with the approval of the Secretary of the Interior, accept appointments as deputy State fish or game wardens, if no compensation is attached to the position. (Executive order of July 9, 1914.)

Laborers in charge of lights in the Lighthouse Service are excepted from the operation of the order of January 17, 1873. (Executive order of October 6, 1915.)

Employees of the Treasury Department may, with the approval of the Secretary of the Treasury, accept appointment on any State, county, or municipal council of defense for purposes of mobilizing and conserving the resources of the country. (Executive order of April 14, 1917.)

23. Eligibles holding local office.—Eligibles who are holding a local office not excepted from the prohibitions of the order of 1873 must on selection and acceptance of any position in the competitive classified service or of unclassified laborer immediately resign the local office. The holding of a local office not excepted from the prohibitions of the order of 1873 is an absolute disqualification for appointment, and unless applicants are willing immediately to resign the local office in the event of selection for appointment their applications can not be considered.

24. Executive order of August 27, 1919, amending Executive order of May 14, 1909:

Whenever in the opinion of the Secretary of the Navy or the Secretary of War a strict enforcement of the provisions of section 1, Rule I, of the civil-service rules would influence the result of a local election the issue of which materially affects the local welfare of the Government employees in the vicinity of any navy yard or station or of any arsenal or other military establishment, the Civil Service Commission may, on recommendation of the Secretary of the Navy or the Secretary of War, and after such investigation as it may deem necessary, permit the active participation of the employees of the yard, station, arsenal or other military establishment in such local election. In the exercise of the privilege which may be conferred hereunder, persons affected must not neglect their official duties nor cause public scandal by their activity.

25. Practice under order of May 14, 1909.—This order does not operate to repeal that of January 17, 1873, so far as it applies to navy-yard employees, but merely provides for a waiver of the political-activity rule. It is not the practice of the department to recommend or of the commission to grant under this order permission to bosses or head men, by whatever designation known, or to any person whose recommendations have, by regulation, any influence upon the employment, promotion, laying off, or discharge of other employees, to become candidates for local office, as in such case there would be temptation to use the power of their official positions to secure election. Prior permission must be obtained to engage in any political activity under the order. The order applies solely to local municipal elections. Therefore, under it, permission can not be granted for political activity in county affairs. The order does not apply to localities where the proportion of Government employees to the total population is negligible.

26. Executive order of February 14, 1912:[4]

Employees of the executive civil service permanently residing in the following incorporated municipalities adjacent to the District of Columbia will not be prohibited from becoming candidates for or holding municipal office in such corporations:

In Maryland—Takoma Park, Kensington, Garret Park, Chevy Chase, Glen Echo, Hyattsville, Mount Rainier, Somerset, North Beach, Capitol Heights, Laurel.

In Virginia—Falls Church, Vienna, Herndon.

In the exercise of the privilege granted by this order officers and employees must not neglect their official duties and must not engage in national, State, or county political activity in violation of the civil-service rules, and if there is such violation the head of the department or independent office in which the person is employed shall inflict such punishment as the Civil Service Commission shall recommend.

This order, which is recommended by the Civil Service Commission, is based upon the facts that a considerable number of the residents and taxpayers of the towns mentioned are employed in the Government service; that service as municipal officers in such towns should in no way involve general partisan political activity, and that the principle of home rule and local self-government justifies such participation.

27. Scope of order of February 14, 1912.—The exception made in this case to section 1 of Rule I and the Executive order of January 17, 1873, does not extend to municipalities other than those specifically named, and Government employees residing in other towns than these who desire to become candidates for local office or to take an active part in political campaigns are not permitted by this order to do so.

28. Woman suffrage.—Those favoring or opposing the cause of woman suffrage are subject to the same rules and restrictions regarding political activity as are applicable to the adherents or opponents of other political causes.

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[4]As amended by orders of May 5, 1914, May 26, 1914, and Mar. 9, 1918.

29. Betting or wagering on elections.—Betting or wagering upon the results of primary and general elections is penalized by the laws of most States and is regarded as improper political activity.

30. Seeking legislation.—Service as a legislative agent or lobbyist and all other activity in connection with direct legislation and proposed constitutional or statutory provisions, National or State, and with proposed municipal ordinances, regulations, or other enactments, is prohibited.[5]

31. Other forms of activity.—Among other forms of political activity which are prohibited by the rule are the distribution of campaign literature, badges, or buttons, the wearing of such badges or buttons while on duty, the circulation but not the signing of political petitions (including initiative and referendum, recall, and nominating petitions), and general political leadership or becoming prominently identified with any political movement, party, or faction or with the success or failure of any candidate for election to public office.

32. Candidacy for presidential positions.—Where a competitive employee seeks promotion in the way of appointment or transfer to an unclassified office, there is no objection to his becoming a candidate for such an office, provided the consent of his department is obtained, and provided he does not violate section 1 of Rule I, prohibiting the use of his official authority or influence in political matters, and provided further that he avoids neglect of duty and any action that would cause public scandal or semblance of coercion upon his fellow employees or upon those over whom he desires to be placed in the position to which he seeks appointment.

A competitive classified employee may circulate a petition or seek indorsements for his own appointment to an unclassified position, subject to the qualifications above stated, and he may, as an individual, sign a petition or recommend another for such an appointment; but he may not circulate a petition or solicit indorsements, recommendations, or support for the appointment of another person to such a position, whether or not such other person is a fellow employee or one not at the time in the Government service.

In case an unofficial primary or election is held for the purpose of determining the popular choice for the unclassified office, a competitive employee may permit his name to appear upon the ticket, but he may not solicit votes in his behalf at such a primary or election, or in any manner violate section 1 of Rule I. He may vote and express privately his opinions, but may not solicit votes or publicly advocate the candidacy or election of himself or any other person.

33. Signing of petitions.—As stated in the preceding paragraph, it is permissible for a competitive classified employee, as an individual, to sign a petition or recommend another for appointment to an unclassified position. He is not permitted to sign such a petition as a Government employee or in any other way to use his official authority or influence to advance the candidacy of any person for election or appointment to any office. While competitive employees are permitted to exercise the right as individuals to sign a petition favoring a candidate for any office, they may not do so as Government employees or as a group or association of Government employees.

34. Reinstatement.—The conditions under which reinstatement may be authorized where an employee resigns to engage in political activity or to become a candidate for elective office are indicated in the following extract from a letter of the President dated December 26, 1911:

> I am of opinion that, in accord with the spirit of our institutions in recognizing the fundamental right of citizenship, a citizen who resigns to become a candidate for office and pursues a course free from coercion, bribery, or other scandalous or unlawful conduct should not thereby be prejudiced by being refused reinstatement within the period of eligibility prescribed by the rules; nor do I think any distinction should be made between the person who resigns and becomes a candidate and one who resigns, not to be a candidate, but to manage or take part in a political campaign for a party. If he wishes to run the risk of finding an Executive who will reinstate him and he resigns in order to avoid a violation of the rules as to participation in electoral contests by members of the classified service, I do not see why it should demoralize the service to allow him to resign and run the risk of securing the approval of his reinstatement by the Executive within a year after he has resigned.

In a similar case the President had stated previously: "I do not mean to say that the circumstances under which one leaves a department and the purpose for which it is done might not affect the right to reinstatement."

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[5] Applies to all legislation except Federal legislation relating to the conditions of labor of employees. As to such legislation, see secs. 57 and 61, post.

If one resigns not merely to escape punishment for political activity prior to resignation, but without delinquency or misconduct and to avoid violation of the rule, and is guilty of no scandalous or unlawful conduct in his activity after resignation, his reinstatement may be authorized.

II. POLITICAL ACTIVITY OF PRESIDENTIAL OFFICERS AND INCUMBENTS OF UNCLASSIFIED AND EXCEPTED POSITIONS.

35. Executive order of July 14, 1886:

I deem this a proper time to especially warn all subordinates in the several departments and all officeholders under the General Government against the use of their official positions in attempts to control political movements in their localities.

Officeholders are the agents of the people, not their masters. Not only is their time and labor due to the Government, but they should scrupulously avoid, in their political action as well as in the discharge of their official duties, offending, by display of obtrusive partisanship, their neighbors who have relations with them as public officials.

They should also constantly remember that their party friends from whom they have received preferment have not invested them with the power of arbitrarily managing their political affairs. They have no right as officeholders to dictate the political action of their party associates or to throttle freedom of action within party lines by methods and practices which pervert every useful and justifiable purpose of party organization. The influences of Federal officeholders should not be felt in the manipulation of political primary meetings and nominating conventions. The use by these officials of their positions to compass their selection as delegates to political conventions is indecent and unfair, and proper regard for the proprieties and requirements of official place will also prevent their assuming the active conduct of political campaigns.

Individual interest and activity in political affairs are by no means condemned. Officeholders are neither disfranchised nor forbidden the exercise of political privileges, but their privileges are not enlarged nor is their duty to party increased to pernicious activity by office holding.

A just discrimination in this regard between the things a citizen may properly do and the purposes for which a public office should not be used is easy, in the light of a correct appreciation of the relation between the people and those intrusted with official place and the consideration of the necessity under our form of government of political action free from official coercion.

You are requested to communicate the substance of these views to those for whose guidance they are intended.

36. President's letter of June 13, 1902.—Under date of June 5, 1902, the Commission addressed a letter to the President in which it called attention to the omission in the new postal regulations, issued April 1, 1902, of former section 435, providing that—

Officeholders should not offend by obtrusive partisanship, nor assume the active conduct of political campaigns. * * * This is in consonance with the order of President Cleveland of July 14, 1886.

The Commission also called the President's attention to the following statement in its Eleventh Report:

The Commission feels strongly that whatever rule is adopted should apply equally to adherents of all parties, and that it would be safe to adopt as such a rule the requirement that the adherents of the party in power shall never do what would cause friction in the office and subvert discipline if done by the opponents of the party in power. A man in the classified service has the entire right to vote as he pleases and to express privately his opinions on all political subjects, but he should not take any active part in political management or in political campaigns, for precisely the same reasons that a judge, an Army officer, a regular soldier, or a policeman is debarred from taking such active part. It is no hardship to a man to require this. It leaves him free to vote, think, and speak privately as he chooses, but it prevents him, while in the service of the whole public, from turning his official position to the benefit of one of the parties into which that whole public is divided; and in no other way can this be prevented.

The Commission recommended either that a general Executive order upon the subject be issued by the President or that recommendations be made to the heads of Departments for the establishment of regulations similar to the post-office regulation which had been omitted.

The following reply was received under date of June 13, 1902:

GENTLEMEN: As the greater includes the less, and as the Executive order of President Cleveland of July 14, 1886, is still in force, I hardly think it will be necessary again to change the postal regulations.

The trouble, of course, comes in the interpretation of this Executive order of President Cleveland. After 16 years' experience it has been found impossible to formulate in precise language any general construction which shall not work either absurdity or injustice. Each case must be decided on its merits. For instance, it is obviously unwise to apply the same rule to the head of a big city Federal office, who may by his actions coerce hundreds of employees, as to a fourth-class postmaster in a small village who has no employees to coerce and who simply wishes to continue to act with reference to his neighbors as he always has acted.

As Civil Service Commissioner under Presidents Harrison and Cleveland I found it so impossible satisfactorily to formulate and decide upon questions involved in these matters of so-called pernicious activity by officeholders in politics that in the Eleventh Report of the Commission I personally drew up the paragraph which you quote. This paragraph was drawn with a view of making a sharp line between the activity allowed to public servants within the classified service and those without the classified service. The latter under our system are, as a rule, chosen largely with reference to political considerations, and, as a rule, are and expect to be changed with the change of parties. In the classified service, however, the choice is made without reference to political considerations and the tenure of office is unaffected by the change of parties. Under these circumstances it is obvious that different standpoints of conduct apply to the two cases. *In consideration of fixity of tenure and of appointment in no way due to political considerations, the man in the classified service,* while retaining his right to vote as he pleases and to express privately his opinions on all political subjects, "*should not take any active part in political management or in political campaigns,* for precisely the same reasons that a judge, an Army officer, a regular soldier, or a policeman is debarred from taking such active part." This, of course, applies even more strongly to any conduct on the part of such employee so prejudicial to good discipline as is implied in a public attack on his or her superior officers, or other conduct liable to cause scandal.

It seemed to me at the time, and I still think, that the line thus drawn was wise and proper. After my experience under two Presidents—one of my own political faith and one not—I had become convinced that it was undesirable and impossible to lay down a rule for public officers not in the classified service which should limit their political activity as strictly as we could rightly and properly limit the activity of those in whose choice and retention the element of political considerations did not enter; and afterwards I became convinced that in its actual construction, if there was any pretense of applying it impartially, it inevitably worked unevenly, and, as a matter of fact, inevitably produced an impression of hypocrisy in those who asserted that it worked evenly. *Officeholders must not use their offices to control political movements, must not neglect their public duties, must not cause public scandal by their activity;* but outside of the classified service the effort to go further than this had failed so signally at the time when the Eleventh Report, which you have quoted, was written, and its unwisdom had been so thoroughly demonstrated that I felt it necessary to try to draw the distinction therein indicated.

Sincerely, yours,

THEODORE ROOSEVELT.

37. Departmental Regulations.—The following order relating to the political activity of presidential appointees was issued by the State, Treasury, War, Navy, Interior, Agriculture, and Commerce Departments, and by the Interstate Commerce Commission, the Secretary of the Smithsonian Institution, and the Public Printer:

Presidential appointees are forbidden by statute to use their official authority or influence to coerce the political action of any person or body, to make any contribution for a political object to any other officer of the United States, or to solicit or receive contributions for political purposes from other Federal officers or employees, or to discriminate among their employees or applicants for political reasons.

Otherwise, a presidential appointee will be allowed to take such a part in political campaigns as is taken by any private citizen, except that he will not be permitted—

1. To hold a position as a member or officer of any political committee that solicits funds.
2. To display such obtrusive partisanship as to cause public scandal.
3. To attempt to manipulate party primaries or conventions.
4. To use his position to bring about his selection as a delegate to conventions.
5. To act as chairman of a political convention.
6. To assume the active conduct of a political campaign.
7. To use his position to interfere with an election or to affect the result thereof.
8. To neglect his public duties.

The following order governing the political activity of presidential appointees under the Department of Justice was issued by the Attorney General:

No presidential appointee or other unclassified employee of the Department of Justice will hereafter be permitted (*a*) to hold a position as a member of any political committee that solicits funds; (*b*) to display such obtrusive partisanship as to cause public scandal; (*c*) to attempt to manipulate party primaries or conventions; (*d*) to use his position to bring about his selection as delegate to conventions; (*e*) to act as chairman of a political convention; (*f*) to assume the active conduct of a political campaign; (*g*) to use his position to interfere with an election or to affect the result thereof; (*h*) to neglect his public duties.

The Postmaster General, in an order issued October 1, 1902, said:

As to political activity, a sharp line is drawn between those in the classified and those in the unclassified service. Postmasters or others holding unclassified positions are simply prohibited from using their offices to control political movements, from neglecting their duties, and from causing public scandal by their political activity.

In a letter of November 20, 1906, the Postmaster General said:

It is not the practice of this Department to prohibit postmasters from holding positions as members of political committees, but it does prohibit them from serving in the capacity of officers of such committees.

III. POLITICAL ASSESSMENTS.

38. SOLICITATION OR RECEIPT OF POLITICAL CONTRIBUTIONS BY ONE EMPLOYEE FROM ANOTHER.—Section 118, Criminal Code (35 Stat., 1110), provides:

> **"No Senator or Representative in, or Delegate or Resident Commissioner to Congress, or Senator, Representative, Delegate, or Resident Commissioner elect, or officer or employee of either House of Congress, and no executive, judicial, military, or naval officer of the United States, and no clerk or employee of any department, branch, or bureau of the executive, judicial, or military or naval service of the United States, shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever from any officer, clerk, or employee of the Unted States, or any department, branch, or bureau thereof, or from any person receiving any salary or compensation from moneys derived from the Treasury of the United States."**

39. Circulars of solicitation bearing names of Federal employees.—In an opinion of October 17, 1902 (24 Op., 133), the Attorney General held that the sending of a circular letter by a political committee to Federal officers and employees soliciting financial aid in congressional or State elections, upon or attached to which appear the names of Federal officers or employees, is a violation of section 11 of the civil-service act (now sec. 118 of the Criminal Code), which declares that no officer or employee of the Government shall be in any manner concerned in soliciting or receiving any assessment or contribution for any political purpose whatever from any officer or employee of the United States. The statute unquestionably condemns all such circulars, notwithstanding the particular form of words adopted, in order to show a request rather than a demand, and to give the responses a quasi voluntary character.

40. Sufficiency of indictments.—The following are extracts from the decision in United States *v.* Scott (74 Fed., 213), in the Circuit Court of the District of Kentucky, rendered October 7, 1895, by Taft, J.:

> To charge a man with soliciting a contribution from United States officers for a political purpose carries with it by implication a charge that the accused knew the purpose for which the contribution was solicited. The words "for a political purpose" may reasonably be construed to qualify not only the contribution but the solicitation. Similarly, to charge that a man received from another his contribution for a political purpose, by implication charges that the reception was for the same purpose as the contribution. * * * Nor was it necessary to set out the specific averment that the defendant knew that the persons from whom the contributions were reecived were officers of the United States.

In an opinion of January 25, 1896 (21 Op., 298), the Attorney General held that a disbursing agent of the Government who honored an order of another person to pay a portion of his salary to a person not in the service in aid of a political fund, knowing the purpose of such payment, did not violate the law, stating:

> Bellman's action must therefore be judged by section 11 alone. I can not see how it can fairly be said that it was a violation of the provisions of this section. It is admitted that he did not solicit the contribution. Nor can it be said, in any proper sense of the term, that he received it. He physically took the money from the package, but he did so merely as the agent of the owner, and so long as it remained in his possession he held it as the agent of the owner, who, had a right at any time to revoke his order and reclaim the money. This right continued until Bellman actually handed the money over to the third person, who alone can be said to have received it. When he received it it was from the secret agent in Chicago by the hand of Bellman and not from Bellman. He was accountable to the agent in Chicago and not to Bellman for its use or misuse. Bellman had no more to do with the transaction than a mere messenger would have had to whom the owner had handed it for delivery. The receipt of money, etc., intended by the statute is acceptance of possession which confers a right of disposal, not possession which simply constitutes the taker a mere custodian without right on his own behalf or that of others.
>
> The phrase "in any manner concerned in soliciting or receiving" was intended to cover evasions of the purpose of the statute and to punish all persons for whom or on whose behalf or at whose instance the person actually receiving the money is acting. Your statement excludes all relation whatever on the part of Bellman to the transaction other than the mere physical one which I have already described. In my opinion he was not guilty of either receiving or being concerned in receiving a contribution for a political purpose within the meaning of the act in question.

In the case of United States *v.* Dutro, May T., 1913, Western District of Tennessee, unreported, the same defense was interposed, and upon motion for directed verdict for defendant, the following decision was rendered by McCall, J.:

I have given all the time counsel cared to consume in the discussion of this motion for a directed verdict, because I gathered from what had been said that it was practically determinative of the case.

The statute under which the indictment was found prohibits (and I shall speak of this concrete case) the postmaster at Memphis, Tenn., from receiving, or being in any manner concerned in receiving, any assessment, subscription, or contribution for any political purpose whatever from any official, clerk, or employee of the United States.

There are four counts in the indictment. Two of them charge the defendant with receiving subscriptions and contributions for political purposes from an officer, clerk, or employee of the United States, and two of them charge defendant with being concerned in receiving such assessment or subscription for political purposes from a clerk or employee of the United States.

Evidently one of the purposes of Congress in enacting the legislation was to prohibit superior officers from bringing pressure to bear upon their subordinates in order to secure contributions for campaign purposes, and the act is couched in very broad terms.

This evidence (which so far is uncontradicted) shows that the defendant, Mr. Dutro, did receive two contributions for campaign purposes from an officer or clerk or employee of the United States. Whatever may have been Mr. Dutro's frame of mind in regard to his connection with it, the one fact remains, as the evidence shows, that he received these contributions for the purposes and from the parties which the law prohibits. Perhaps and no doubt he did so without any thought that he was violating any statute, and felt that he was acting purely as a conveyor of these contributions to the political parties for whom they were intended, to accommodate those who were making the contributions, and purely as a personal matter, but I think under the evidence his action was in violation of the statute.

The other two counts, as I have pointed out, charge the defendant with being concerned in receiving assessments, subscriptions, or contributions for campaign purposes from a clerk, employee, or officer of the United States. There is a controversy here between counsel as to what the word "concerned" means. From what the law books say which have been read here, and from my own impression, it seems that the word concerned means to be interested in, or take part in, receiving such contributions. If Mr. Dutro, by his connection with these two subscriptions, took a part in the contributions being made by employees of the Government for campaign purposes, he would be guilty. I think the natural construction of the phrase or term or word necessarily leads to the conclusion that he did take a part in receiving the contributions, because he received and conveyed them from the contributors to the parties for whom they were intended, and, as the proof so far shows, he knew that the parties who were making the contributions were clerks under him in the Post Office Department, and he knew the purpose for which the money was to be used and where it was to go.

Entertaining these views, upon the motion as now made, I think it should be overruled.

The following is an extract from the court's charge to the jury in the same case:

I charge you the law to be that if Mr. Dutro received the contribution while he was postmaster at Memphis, Tenn., from Mr. Roberts, a clerk or appointee in the post office at Memphis, Tenn., and he received it for political purposes—that is, it was to be used in the interest of a political campaign—and Mr. Dutro knew that was the purpose of the contribution, then he would be guilty under this statute of having received a contribution for political purposes, while postmaster—that is, an officer of the United States Government—from an employee and clerk in the service of the United States Post Office Department. And if he took the contribution and conveyed it to the place for which it was intended—that is, the political campaign committee of the Republican Party—then he had not only received it in violation of law, but under the first count in the indictment he would be guilty of being concerned in receiving funds for campaign purposes within the prohibition of the law.

What I have just said in regard to the transaction between the defendant and Mr. Roberts, as charged in the first and second counts, is also applicable to the transaction between the defendant and Miss Baker, as charged in the third and fourth counts, and need not be repeated.

You may find that he received them, then he would be guilty under the counts charging him with receiving them; or you may find that he did not receive them, then he would not be guilty under those counts charging him with receiving them; but under the law as I charge it to you, if he received them knowingly, and they were delivered by him or used by him for political purposes, then he would also be concerned in receiving them, and he would be guilty under those counts in the indictment.

The jury returned a verdict of guilty on all four counts of the indictment. The decision and charge above quoted overrule the opinion of the Attorney General of January 25, 1896, so far as it may be urged as a defense in cases of this sort, and the principle appears to be definitely established that a defendant may no longer escape punishment by alleging that he received a political contribution as a mere agent or messenger for the purpose of turning it over to a political organization.

41. SOLICITATION OR RECEIPT OF POLITICAL CONTRIBUTIONS IN FEDERAL BUILDINGS.—Section 119, Criminal Code (a reenactment of section 12 of the civil-service act), provides as follows:

> **"No person shall, in any room or building occupied in the discharge of official duties by any officer or employee of the United States mentioned in the preceding section, or in any navy yard, fort, or arsenal, solicit in any manner whatever or receive any contribution of money or other thing of value for any political purpose whatever."**

42. Letters addressed to Federal buildings.—The Commission by a minute adopted March 23, 1897, held that addressing a letter to a Government employee in a Government building soliciting political contributions is a solicitation in that building within the meaning of section 12 of the civil-service act, and in this opinion was sustained by the advice of eminent counsel (see 14th Report, pp. 147–155), but notwithstanding numerous violations no opportunity arose of having the question judicially determined until 1907, when an indictment was obtained against Edward S. Thayer at Dallas, Tex. A demurrer was interposed to the indictment and was sustained on the ground that the act required the personal presence in the Government building of the solicitor. Appeal was taken to the Supreme Court, and the judgment of the lower court was reversed. (United States *v.* Thayer, 209 U. S., 39.) The opinion of the court, which was delivered by Justice Holmes on March 9, 1908, establishes definitely the proposition that solicitation by letter or circular addressed to and delivered by mail or otherwise to an officer or employee of the United States at the office or building in which he is employed in the discharge of his official duties is a solicitation "in a room or building" within the meaning of this section, the solicitation taking place where the letter was received. (See also United States *v.* Smith, 163 Fed., 926, where the letter was personally delivered.)

43. Letters delivered in Federal buildings.—The Commission holds that the sending through the mails of letters to Government employees soliciting political contributions, their street or home address being omitted from the envelopes, with the result that the letters are delivered by the postal authorities in the Government building in which they are employed, constitutes a violation of this section. It is a maxim of the law that a person is presumed to intend the natural and reasonable consequences of his acts, and failure or omission to take measures to avoid delivery of such letters in a Government building will render the offender liable to prosecution. One such prosecution has been had, but sufficient evidence was adduced to convince the jury that there was no intent to violate the law, and the defendants were acquitted.

44. DISCRIMINATION ON ACCOUNT OF POLITICAL CONTRIBUTIONS.—Section 120, Criminal Code (a reenactment of sec. 13 of the civil-service act), provides as follows:

> **"No officer or employee of the United States mentioned in section one hundred and eighteen shall discharge or promote or degrade or in any manner change the official rank or compensation of any other officer or employee, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose."**

45. PAYMENT OF POLITICAL CONTRIBUTIONS BY ONE EMPLOYEE TO ANOTHER.—Section 121, Criminal Code (a reenactment of sec. 14 of the civil-service act), provides that—

> **"No officer, clerk, or other person in the service of the United States shall, directly or indirectly, give or hand over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object whatever."**

46. PENALTIES FOR ASSESSMENTS.—Section 122 of the Criminal Code provides as follows:

> **"Whoever shall violate any provision of the four preceding sections shall be fined not more than five thousand dollars or imprisoned not more than three years, or both."**

47. FOREGOING OFFENSES ARE FELONIES.—By section 15 of the civil-service act it was declared that persons violating any provisions of the four preceding sections should be guilty of a misdemeanor, but this section is now superseded by section 122 of the Criminal Code, above quoted, which makes such violation a felony, in view of the following provision of section 335 of the Criminal Code:

> "All offenses which may be punished by death or imprisonment for a term exceeding one year shall be deemed felonies. All other offenses shall be deemed misdemeanors."

IV. POLITICAL COERCION.

48. CIVIL-SERVICE ACT AND RULE.—Section 2, clause second, of the civil-service act directs that the civil-service rules "shall provide and declare as nearly as the conditions of good administration will warrant, as follows: * * * Sixth. That no person in said service has any right to use his official authority or influence to coerce the political action of any person or body." In pursuance of this section civil service Rule I, section 1, provides, in part, that "No person in the executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof." This provision applies to all persons in the executive civil service, unclassified as well as classified, and is held to prohibit a superior officer from requesting or requiring the rendition of any political service or the performance of political work of any sort by subordinates.

V. POLITICAL DISCRIMINATION.

49. FAILURE TO CONTRIBUTE OR RENDER POLITICAL SERVICE NOT PREJUDICIAL.—Section 2, clause second, of the act also provides:

> "Fifth. That no person in the public service is for that reason under any obligations to contribute to any political fund or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so."

50. POLITICAL OPINIONS AND AFFILIATIONS.—Section 2 of Rule I provides as follows:

> "No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations, and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the executive civil service against or in favor of an applicant, eligible, or employee in the classified service because of his political or religious opinions or affiliations."

51. Definition of discrimination.—Political discrimination consists in giving appointment, promotion, or any other favor to an appointee, eligible, or candidate because of his politics, or withholding appointment, promotion, or any other favor from an appointee, eligible, or candidate because of his politics. An appointing officer who appoints or refuses to appoint an applicant because the applicant does or does not entertain certain political opinions, who makes any inquiry of the applicant or any other person as to the applicant's political opinions or affiliations, or reduces an employee because that employee refuses to render political service, to be coerced in political action, or to contribute money for political purposes, or who advances or promotes an employee for opposite reasons, violates the civil-service act and rules.

52. Wholesale removals.—The removal of a large number of employees of the same political faith from an office will be presumed to have been made for political reasons, and the burden is upon the officer making the removal to show that just cause existed for making each such removal.

VI. POLITICAL RECOMMENDATIONS.

53. SENATORS AND REPRESENTATIVES.—Section 10 of the civil-service act provides:

> "That no recommendation of any person who shall apply for office or place under the provisions of this act which may be given by any Senator or Member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act."

54. DISCLOSING POLITICS.—Rule I, section 8, provides as follows:

> "No recommendation of an applicant, eligible, or employee in the competitive service involving a disclosure of his political or religious opinions or affiliations shall be considered or filed by the Commission or any officer concerned in making appointments or promotions."

55. Letters disclosing politics or religion not to be considered.—It is the duty of officers concerned in making appointments or promotions to refuse to receive or consider letters disclosing the politics or religion of an applicant, eligible, or employee and to explain to the writers that communications based upon such grounds will not receive attention or be filed.

56. RECOMMENDATIONS FOR PROMOTION.—Rule XI, section 8, provides that—

> "No recommendation for the promotion of a classified employee shall be considered by any officer concerned in making promotions, unless it be made by the person under whose supervision such employee has served; and such recommendation by any other person, if made with the knowledge and consent of the employee, shall be sufficient cause for debarring him from the promotion proposed, and a repetition of the offense shall be sufficient cause for removing him from the service."

VII. POSTAL SERVICE EMPLOYEES.

57. ORGANIZATIONS.—Section 6 of the act of August 24, 1912 (36 Stat., 555), provides in part—

> "That membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said Postal Service, or the presenting by any such person or groups of persons of any grievance or grievances to the Congress or any Member thereof, shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service."

58. Rural carriers.—Executive order of December 30, 1911:

Hereafter paragraphs (*a*) and (*b*) of section 1 of civil-service Rule VII shall apply to the appointment of rural carriers, and three eligibles shall be certified by the Civil Service Commission.

In all cases selections shall be made with sole reference to merit and fitness and without regard to political considerations. No inquiry shall be made as to the political or religious opinions or affiliations of any eligible, and no recommendation in any way based thereon shall be received, considered, or filed by any officer concerned in making selections or appointments. Any such recommendation, in writing, forwarded to any such officer shall be at once returned to the writer, with attention invited to the purport of this order, and attention hereto shall be similarly directed in connection with any verbal recommendation. Where it is found that there has been a violation of these provisions by any officer concerned in making selections or appointments, such fact shall be cause for the immediate removal of such officer from the service, and the commission shall make prompt report of any such case for appropriate action to the Postmaster General, or, as to presidential appointees, to the President. The apointment of the rural carrier concerned, if effected, shall be canceled.

Persons employed as rural carriers, while retaining the right to vote as they please and to express their opinion privately on all political subjects, shall take no active part in political management or in political campaigns. Any rural carrier taking such part shall be removed from the service or otherwise disciplined, recommendation as to the penalty to be imposed in each case to be made by the Civil Service Commission.

Paragraphs (*a*) and (*b*) of section 1 of civil-service Rule VII refer to the manner of certification of eligibles.

59. Fourth-class postmasters.—Extract from regulations approved by the President November 25, 1912:

In all cases selection for appointment shall be made with sole reference to merit and fitness and without regard to political or religious considerations. No inquiry shall be made as to the political or religious opinions or affiliations of any applicant or eligible, and in conformity with section 10 of the civil-service act no recommendation in any way based thereon shall be received or considered by any officer concerned in making selections or appointments. The attention of the writer of any such recommendation shall be invited to the purport of this order, and attention hereto shall be similarly directed in connection with any verbal recommendation. Where it is found that there has been a violation of these provisions by any officer concerned in making selections or appointments, such fact shall be cause for the immediate removal of such officer from the service, and the Civil Service Commission shall make prompt report of any such case for appropriate action to the Postmaster General, or, as to presidential appointees, to the President. The appointment of the fourth-class postmaster concerned, if effected, shall be canceled. Persons employed as postmasters of the fourth class, while retaining the right to vote as they please and to express their opinions privately on all political subjects, shall take no active part in political management or in political campaigns. Any such postmaster taking such part shall be removed from the service or otherwise disciplined, recommendations as to the penalty to be imposed in each case to be made by the Civil Service Commission. This section shall apply to all offices of the fourth class of whatever compensation.

VIII. ATTEMPTS TO INFLUENCE LEGISLATION.

60. Right of petition.—The first amendment of the Constitution of the United States provides that "Congress shall make no law respecting an establishment of religion; or prohibit the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The matter of attempts by Government employees to influence legislation has been the subject of a number of Executive orders (see 29th Report of Commission, p. 21), the last of which is dated April 8, 1912, and reads as follows:

It is hereby ordered that petitions or other communications regarding public business addressed to the Congress or either House or any committee or Member thereof by officers or employees in the civil service of the United States shall be transmitted through the heads of their respective departments or offices, who shall forward them without delay with such comment as they may deem requisite in the public interest. Officers and employees are strictly prohibited, either directly or indirectly, from attempting to secure legislation or to influence pending legislation, except in the manner above prescribed.

This order supersedes the Executive orders of January 31, 1902, January 25, 1906, and November 26, 1909, regarding the same general matter.

This order was rescinded by the provision contained in section 6 of the act of August 24, 1912 (37 Stat. L., 555), that "the right of persons employed in the civil service of the United States, either individually or collectively, to petition Congess, or any Member thereof, or to furnish information to either House of Congress, or to any committee or Member thereof, shall not be denied or interfered with."

IX. JURISDICTION OF COMMISSION.

61. Investigations and recommendations.—The Commission's jurisdiction under the civil-service act and rules extends to the investigation of alleged violations of law or rules as to political activity, assessments, coercion, discrimination, etc., on the part of both classified and unclassified employees, except alleged violations by unclassified employees of restrictions upon their political activity contained in the various Executive orders and letters of the Presidents and in the orders issued by the heads of departments.

62. Policy of Commission.—It is the duty of the Commission to see that the provisions of the civil-service act and rules are strictly enforced, and it will employ every legitimate and available means to secure the prosecution and punishment of persons who may violate them. The commission requests any person having knowledge of any such violation to lay the facts before it, that it may at once take action thereupon.

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